

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

**Case No. 13-C-440
(Criminal Case No. 10-CR-25)**

ERIC SCANLAN,

Movant.

ORDER

Pending before this Court is Movant Eric Scanlan's amended motion pursuant to 28 U.S.C. § 2255. One of Scanlan's contentions is that *Johnson v. United States*, 133 S.Ct. 2276 (2015) which holds the residual clause of the Armed Career Criminal Act (ACCA), 18 U.S.C. § 924(e), is unconstitutionally vague, applies retroactively to collateral attacks involving U.S.S.G. § 4B.1.2(a)(2), a residual clause worded identically to ACCA's residual clause.¹ That issue, critical to the disposition of Scanlan's petition, is awaiting decision by the Court of Appeals, see *Dawkins v. United States*, No. 15-3667, __ F.3d __, 2016 WL 80552, at *1 (7th Cir. Jan. 7, 2016) (noting that the issue is pending in *United States v. Rollins*, No.

¹Scanlan's case involves U.S.S.G. § 2K2.1(a)(2) which incorporates § 4B.1.2(a)(2).

13-1731, and the consolidated cases of *United States v. Hurlburt*, No. 14-3611 and *United States v. Gillespie*, No. 15-1686.) Based on the foregoing, the Court stays the resolution of this action until *Rollins* is decided.

SO ORDERED at Milwaukee, Wisconsin, this 26th day of January, 2016.

BY THE COURT:


HON. RUDOLPH T. RANDA
U.S. District Judge